

SENATE

'19 JUL -8 P2:56

S. No. 281

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Introduced by Senator MANUEL "LITO" M. LAPID

**AN ACT
TO REGULATE PUBLIC SOLICITATION AND
PROVIDING FUNDS THEREFOR**

EXPLANATORY NOTE

The Department of Social Welfare and Development (DSWD) has received reports regarding unscrupulous solicitations by various organizations and associations. Complainants report that government agencies are being misrepresented to syndicates that guise of legality in their solicitation. On other occasions, soliciting groups do not identify the intended beneficiaries of, or projects to be undertaken out of the proceeds of the solicitation.

The lack of transparency and feedback from organizations and agencies has caused many citizens to question the legality, sincerity, and truthfulness of solicitation campaigns. Not only does this situation mar the reputation and goals of the organizations, agencies, and individuals who are sincere in their charitable and public benefit efforts, but it also misappropriates funds that the public may be investing for the benefit of those who are less privileged.

The proposed measure identifies the DSWD and its offices as the regulator of public solicitation activities. The system of regulation envisioned under this bill will protect the integrity of government agencies and non-government organizations with a genuine intent to pursue charitable and public welfare activities that require

funding through public solicitation. Further, the regulation of public solicitation will promote good relations between donors and beneficiaries.

Passage of this measure is earnestly urged.


MANUEL "LITO" M. LAPID
Senator

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**AN ACT
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*Be it enacted by the Senate and the House of Representatives of the
Philippines in Congress assembled:*

1 Section 1. *Short Title.* – This Act shall be known as the "Public Solicitation
2 Act".

3

4 Sec. 2. *Declaration of Policy.* – It is the policy of the State to promote and
5 strengthen the partnership between the public and private sectors for the upliftment
6 of poor, disadvantaged, marginalized, vulnerable, and underprivileged individual,
7 families, groups, and communities in the country. Towards this end, the State shall
8 establish standards and guidelines, and strengthen the system of granting permits or
9 authorization primarily to solicit funds or donations from the public for charitable,
10 social and public welfare purposes to ensure that funds are properly utilized for the
11 intended purpose and beneficiaries.

12

13 Sec. 3. *Coverage.* – This Act shall apply to all National Government Agencies
14 (NGAs), Government Owned and Controlled Corporations (GOCCs), State
15 Colleges/Universities, Local Government Units (LGUs) and other government
16 agencies; Non-Government Organizations (NGOs) including faith based, people's
17 organization and civil society organizations, associations, branch offices and similar

1 organizations, chapters and affiliates of similar international organizations operating
2 in the Philippines which are partly or fully financed with funds solicited from or
3 contributed by the public or private sectors for charitable or public welfare purposes.
4

5 Sec. 4. *Exemption from Coverage.* – The following shall be exempt from the
6 coverage of this Act:

7 a. Organizations and agencies created by laws that specifically confer authority
8 on them to solicit or conduct fund campaign for charitable or public welfare
9 purposes shall continue to be covered by their respective charters: *Provided,*
10 That the Department of Social Welfare and Development (DSWD), which may
11 act through the Provincial Social and Welfare Development Office (PSWDO),
12 the City Social Welfare Development Office (CSWDO), or the Municipal Social
13 Welfare Development Office (MSWDO), shall have the authority to monitor
14 the activities of these organizations and agencies and to require them to
15 submit documents such as, but not limited to, the following:

16 (1) Audited fund utilization report of collections, income and
17 expenditures, and other financial documents;

18 (2) A list of donors and their corresponding addresses and contact
19 numbers;

20 (3) A list of beneficiaries with their corresponding signatures,
21 addresses, contact numbers, and amount or type of assistance
22 extended;

23 (4) A list of completed projects indicating the location and cost of the
24 same, with complete documentation on the implementation of the
25 project, such as through pictures, videos, and testimonies of
26 beneficiaries; and

27 (5) Such other documents that the DSWD may require in order to
28 effectively assess the performance of the organization or agency;

29 b. Caroling during Christmas season as a form of solicitation; and

30 c. Solicitations for religious purposes that are made within religious sanctuaries
31 such as churches, mosques, and such other building regularly used for
32 religious services or worship.

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Sec. 5. *Definition of Terms.* – For purposes of this Act, the following terms shall be defined as:

- a. *Administrative cost* – refers to the costs incurred in the management and operation of solicitation activities, such as sending out mails, printing letters of appeal, production of paraphernalia, and such other activities;
- b. *Beneficiaries* – refer to the persons from lower income brackets, vulnerable, marginalized, and financially or otherwise disadvantaged sectors who will benefit from the proceeds of public solicitations, such as, but not limited to: (1) neglected, abandoned, orphaned, or exploited children; (2) children under difficult or sub-par living conditions or circumstances; (3) children in conflict with the law; (4) out of school youth; (5) youth with special needs; (6) persons with disabilities; (7) senior citizens; (8) victims of natural or man-made calamities; (9) financially or socially disadvantaged women or those living under especially difficult circumstances; (10) indigenous peoples communities; (11) rebel returnees; (12) families who are victims of armed conflict situations; (13) financially disadvantaged or dysfunctional families; and (14) communities in depressed areas, among others;
- c. *Charitable purpose* – refers to an intention to provide services or the conduct of activities for beneficiaries, as defined in this Act;
- d. *Donors* – refer to a person, organization, or agency that donates, gives, or contributes personal or real property to beneficiaries for charitable or public welfare purposes;
- e. *Memorandum of Agreement* – refers to a notarized contract executed for the purpose of undertaking a project that shall be for charitable or public welfare purposes and shall state in particular the following information: (1) the identity of the beneficiaries; (2) the amount or percentage from the proceeds that shall be given to the said beneficiaries; (3) the date and place where the project shall be undertaken; (4) the date when the proceeds shall be awarded or the project turned-over to the beneficiaries; (5) the duration of time or period throughout which the proceeds shall be distributed or may be

- 1 claimed; and (6) such other information as may be required to identify the
2 project or specify and delimit its objectives and nature;
- 3 f. *Organization or Agency* – refers to all national government agencies (NGAs),
4 government-owned and controlled corporations (GOCCs), State universities
5 and colleges (SUCs), local government units (LGUs), and other government
6 instrumentalities or agencies, non-government organizations (NGOs),
7 including religious and civil society organizations, people’s organizations,
8 associations, or branch offices, and similar chapters, affiliates, branches, or
9 local offices of similarly-natured international organizations operating within
10 the Philippines that express the desire to or undertake the actual conduct of
11 solicitation or receipt of contributions from the public of funds and proceeds
12 that shall be applied to charitable or public welfare purposes;
- 13 g. *Program Cost* – refers to all expenses incurred in the direct or indirect
14 provision of services or goods to a beneficiary including expenses of the done
15 in its operation and implementation of programs and services relevant to and
16 necessary for the project;
- 17 h. *Public Solicitation* – refers to any activity or project intended to generate
18 funds, goods, or other assistance from the public sectors for charitable or
19 public welfare purposes. Categories of public solicitation shall include:
- 20 1. *Local Public Solicitation* – refers to a solicitation activity conducted
21 within the city or municipality;
- 22 2. *Provincial Public Solicitation* – refers to a solicitation activity conducted
23 in two or more cities or municipalities within a province;
- 24 3. *Regional Public Solicitation* – refers to a solicitation activity conducted
25 in two or more provinces within a region; and
- 26 4. *National Public Solicitation* – refers to a solicitation activity conducted
27 in two or more regions; and
- 28 i. *Public Welfare purpose* – refers to any activity or project relative to health,
29 education, peace, social welfare and protection, environmental safety, rights,
30 security, and safety of citizens, and similar circumstances or conditions.
31

1 *Sec. 6. Authority to Issue Permit.* – The following shall be authorized to grant
2 and issue permits to eligible organizations or agencies for the conduct of allowable
3 solicitation activities:

- 4 a. The Secretary or Undersecretary of the Department of Social Welfare and
5 Development (DSWD), or their designated representative, for national
6 public solicitation
- 7 b. The Regional Director of the DSWD, or his designated representative, for
8 regional public solicitation;
- 9 c. The head of the PSWDO, or his designated representative, in coordination
10 with the Provincial Governor, for provincial public solicitation;
- 11 d. The head of CSWDO or MSWDO, or his designated representative, in
12 coordination with the City of Municipal Mayor, for local public solicitation.

13
14 *Sec. 7. Requirements.* – Applicant organizations or agencies shall comply with
15 such requirements as may be imposed by the DSWD, PSWDO, CSWDO, or MSWDO,
16 as the case may be, such as, but not limited to the following:

- 17 a. A duly accomplished and signed application form in the form of prescribed
18 by the DSWD, PSWDO, CSWDO, or MSWDO, as the case may be, which
19 shall be completed by the head of the applicant organization or agency
20 head or his designated representative;
- 21 b. A project proposal for the intended public solicitation activity with an
22 attached work and financial plan;
- 23 c. Certified true copies of the Certificate of Registration, Articles of
24 Incorporation, and By-Laws, as filed with the Securities and Exchanges
25 Commission (SEC) or such other regulatory agency with jurisdiction to
26 register and monitor the applicant organization or agency;
- 27 d. A certification from the SEC or such other regulatory agency regarding the
28 good standing and continuing operations of the applicant organization or
29 agency and its good standing and updated certification from SEC or other
30 regulatory government agency, which has jurisdiction to regulate the
31 applying organization or agency on the validity of its registration, if non-
32 government organization or private agency;

- 1 e. A notarized Memorandum of Agreement, as defined in this Act, or such
- 2 other similar written contract signifying the intended beneficiary's
- 3 knowledge of and concurrence with the solicitation activity;
- 4 f. A Board Resolution authorizing the conduct of the solicitation activity; and
- 5 g. Such other requirements to be imposed by the DSWD, PSWDO, CSWDO, or
- 6 MSWDO, as the case may be.

7

8 *Sec. 8. Validity of Permit.* – All permits for the purpose of undertaking public

9 solicitation shall be valid for a specified period not exceeding one (1) year. No permit

10 issued pursuant to this Act shall be valid for activities or beneficiaries located outside

11 of the Philippines.

12

13 *Sec. 9. Fees and Charges.* – The DSWD or such other concerned

14 implementing agencies may impose reasonable fees and charges on applicant

15 organizations or agencies: *Provided,* That the collection and liquidation of fees or

16 charges shall be in compliance with existing laws thereon.

17

18 *Sec. 10. Methods of Public Solicitation.* – Public solicitation may be conducted

19 through any of the following methods:

- 20 a. Written requests, such as letters of appeal, printed envelopes, cards, and
 - 21 similar forms;
 - 22 b. Campaigns through mass media, such as through television, cinema, radio,
 - 23 magazine, newspapers, billboards, and others;
 - 24 c. Publication, distribution, circulation, or posting of written advertisements;
 - 25 d. Sale of goods such as souvenir items, rummage sale materials, printed
 - 26 materials, and the like;
 - 27 e. Benefit shows, concerts, fashion shows, and other forms of entertainment
 - 28 shows;
 - 29 f. Distribution or leaving of donation boxes, coin banks, and the like; or
 - 30 g. Other methods that may be allowed by DSWD, PSWDO, CSWDO, or MSWDO,
 - 31 as the case may be.
- 32

1 The ceiling amount for the cost of public solicitation paraphernalia shall be set
2 in the implementing rules and regulations to be issued pursuant to this Act.

3
4 *Sec. 11. Tax Deduction or Exemption of Donations and Contributions.* – The
5 donor, by virtue of the foregoing provisions shall be entitled to an allowable
6 deduction in his income tax return equivalent to the amount of the donation given,
7 pursuant to the provisions thereon as found in the National Internal Revenue Code,
8 as amended.

9
10 *Sec. 12. Allocation of Proceeds.* – Not more than fifteen percent (15%) of the
11 total proceeds from public solicitation activities shall be allocated to and expended
12 for administrative costs. The remaining eighty-five percent (85%) shall be
13 distributed to or utilized entirely for programs directly benefitting or to be received
14 by the named beneficiaries. Unless compliance with this section is satisfactorily
15 established on the basis of the report as required in Section 13 hereof, no
16 organization or agency shall be issued any subsequent permit.

17 Funds collected during the conduct of fund campaign activities shall be
18 deposited in a banking institution regulated by the Bangko Sentral ng Pilipinas (BSP)
19 in an account under the name of the organization or agency to which the permit was
20 issued. Books of account shall also be required in the monitoring or validation of
21 report. The date, duration, and place where the consolidation and accounting of
22 proceeds shall be undertaken and the date of the awarding or turn-over of the
23 proceeds to the beneficiaries, shall be witnessed by the authorized representatives
24 from the DSWD, PSWDO, CSWDO, or MSWDO for national, regional, provincial, city,
25 or municipal fund campaigns respectively.

26
27 *Sec. 13. Monitoring of Public Solicitation Activity.* – The concerned
28 organization or agency to which the permit was issued shall submit to the concerned
29 DSWD office, PSWDO, CSWDO, or MSWDO, as the case may be, within sixty (60)
30 days after the expiration of the issued permit, a report signed and sworn by at least
31 two (2) authorized officers of the organization or agency, indicating whether such

1 permit was used or not. If the activity authorized under the permit was undertaken,
2 the following documents should be submitted:

- 3 a. Audited fund utilization report of income and expenditures;
- 4 b. List of donors indicating their corresponding addresses, contact numbers, and
5 amount of donation;
- 6 c. List of beneficiaries indicating their corresponding addresses, contact
7 numbers, and amount or type of assistance received;
- 8 d. List of projects undertaken and completed with an indication of their location
9 and cost; and
- 10 e. Expired original permit authorizing the conduct of national or local fund
11 campaigns.

12 However, if the activity authorized under the permit is not undertaken, the
13 concerned organization or agency shall submit the following records:

- 14 a. Justification for not conducting or not completing the solicitation activity
15 within the validity period; and
- 16 b. Expired original permit authorizing the conduct of public solicitation.

17 The DSWD, PSWDO, CSWDO, or MSWDO may, in the exercise of their regulatory
18 powers, verify the authenticity of the report submitted by conducting spot
19 investigations or by reviewing the books of account of the concerned organization or
20 agency, which should be maintained and preserved for not less than three (3) years
21 after the completion of the public solicitation activity.

22
23 Sec. 14. *Filing of Complaints.* – The DSWD, PSWDO, CSWDO, or MSWDO may,
24 whether *motu proprio* or upon the complaint of any individual, initiate an
25 investigation and the filing of complaints in the appropriate court against any
26 organization or agency that undertakes fund campaigns without securing the
27 necessary permit therefor or that secures such permits through fraudulent
28 representation: *Provided,* That the foregoing shall not prohibit any concerned person
29 or law enforcement agency to file a complaint before the Regional Trial Court
30 against any person who shall commit any of the acts punishable under Section 26 of
31 this Act.

32

1 Sec. 15. *Handling of Complaint.* – There shall be a Review Committee at the
2 concerned DSWD office, PSWDO, CSWDO, or MSWDO that will handle complaints
3 against an organization or agency. Said Committee shall be organized within sixty
4 (60) days after the effectivity of this Act. The Committee shall be composed of a
5 minimum of seven (7) members consisting of three (3) representatives from
6 concerned government agencies, two (2) from the DSWD, PSWDO, CSWDO, or
7 MSWDO. The specific roles and functions of the Committee as well as the
8 procedures in handling of complaints shall form part of the Implementing Rules and
9 Regulations of this Act.

10
11 Sec. 16. *Prohibited Acts.* – This Act prohibits any organizations or agency to do
12 any of the following acts:

- 13 a. Soliciting without securing solicitation permit from DSWD, PSWDO, CSWDO,
14 or MSWDO;
- 15 b. Soliciting beyond the allowed area of coverage or through unapproved modes
16 of solicitation, as indicated in the approved solicitation permit;
- 17 c. Using falsified or tampered solicitation permits;
- 18 d. Soliciting under an expired solicitation permit;
- 19 e. Using solicited funds for purposes other than those intended or indicated in
20 the solicitation permit;
- 21 f. Using clients or beneficiaries in conducting solicitation activities;
- 22 g. Using proceeds from solicitation activities to finance lottery games, games of
23 chance, or such other activities that are contrary to law, public policy, and
24 morals;
- 25 h. Using solicitation paraphernalia that portray dehumanizing pictures,
26 information, or situations of the intended beneficiary.

27
28 Solicited funds attributable or connected to and resulting from prohibited acts
29 shall be turned over to the DSWD, PSWDO, CSWDO, or MSWDO that issued the
30 solicitation permit. The specific procedures in the management and turn-over of
31 such funds shall be stipulated in the implementing rules and regulations to be issued
32 pursuant to this Act.

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Sec. 17. *Penalties.* – Violations of this law shall be subject to the following penalties:

- a. *Imprisonment ad Fine.* Any person who violates the provision of this Act shall be punished with imprisonment of not less than one (1) year but not more than three (3) years or a fine of not less than One Hundred Thousand Pesos (P100,000.00) but not more than Five Hundred Thousand Pesos (P500,000.00), or both at discretion of the court.
- b. *Cancellation of Permit.* For the first offense, the solicitation permit of the concerned organization or agency shall be revoked and no permit shall be issued to them for a period of two (2) years from the date of violation. For second offense, the concerned organization or agency shall be permanently prohibited from conducting any solicitation activity.
- c. If the offender is a foreign individual, he shall be immediately deported after service of his sentence.
- d. If the offender is an organization or association, the officers and members who knowingly participated in the prohibited acts Act shall be held liable.

Sec. 18. *Information Dissemination.* – The DSWD, PSWDO, CSWDO, or MSWDO shall disseminate information on issued public solicitation permits clearly indicating the association or agency name, permit number, duration of the activity, coverage area, and method of solicitation to be used. Likewise, the DSWD, PSWDO, CSWDO, or MSWDO shall also provide the public with a list of organizations or agencies whose permits have been cancelled or revoked.

Sec. 19. *Implementing Rules and Regulations.* – The Department of Social Works and Development, in coordination with other concerned government agencies and three (3) representatives from the academe, relevant non-government organizations, and the media shall promulgate implementing rules and regulations for this Act within ninety (90) working days from its effectivity.

1 Sec. 20. *Appropriations.* – The amount necessary to carry out the provisions
2 of this Act is hereby authorized to be appropriated in the concerned DSWD and Local
3 Government Units General Appropriations Act for the year following its enactment
4 into law and thereafter.

5
6 Sec. 21. *Repealing Clause.* – Presidential Decree No. 1564, Local Government
7 Code of 1991 Book III Title II Ch 3 Art 1 Sec 444 (b) (3) (v) and Sec 455 (b) (3) (v)
8 and all other laws, decrees, executive orders and proclamations, rules and
9 regulations parts thereof, inconsistent with this Act are hereby repealed or modified
10 accordingly.

11
12 Sec. 22. *Separability Clause.* – In the event that any provision of this Act is
13 held invalid or unconstitutional, the other provisions not affected thereby shall
14 remain valid and subsisting.

15
16 Sec. 23. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after
17 its publication in any two (2) newspapers of general circulation.

18
19 *Approved,*